

SENATE No. 1756**The Commonwealth of Massachusetts**

PRESENTED BY:

Moore, Richard (SEN)*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the modernization of optometric patient care

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard T. Moore	Worcester and Norfolk
Daniel E. Bosley	1st Berkshire
Jennifer Benson	37th Middlesex
Dennis Rosa	4th Worcester
Susan C. Tucker	Second Essex and Middlesex
James E. Timilty	Bristol and Norfolk
Brian A. Joyce	Norfolk, Bristol and Plymouth
Richard R. Tisei	Middlesex and Essex
Sean Curran	9th Hampden
Theodore C. Speliotis	13th Essex
Viriato Manuel deMacedo	1st Plymouth
Robert M. Koczera	11th Bristol
John F. Quinn	9th Bristol
Patricia A. Haddad	5th Bristol
Angelo J. Puppolo, Jr.	12th Hampden
Stephen L. DiNatale	3rd Worcester
James H. Fagan	3rd Bristol
Robert L. Rice, Jr.	2nd Worcester
Lida E. Harkins	13th Norfolk

Christine E. Canavan	10th Plymouth
Christopher J. Donelan	2nd Franklin
Bradley H. Jones, Jr.	20th Middlesex
Allen J. McCarthy	7th Plymouth
Alice K. Wolf	25th Middlesex
Sean Garballey	23rd Middlesex
Matthew C. Patrick	3rd Barnstable
William Smitty Pignatelli	4th Berkshire
Paul Kujawski	8th Worcester
A. Stephen Tobin	2nd Norfolk
Peter J. Koutoujian	10th Middlesex
Anne M. Gobi	5th Worcester
James R. Miceli	19th Middlesex
William G. Greene, Jr.	22nd Middlesex
Barry R. Finegold	17th Essex
James Cantwell	4th Plymouth
Charles A. Murphy	21st Middlesex
Cleon H. Turner	1st Barnstable
Timothy J. Toomey, Jr.	26th Middlesex
Thomas J. Calter	12th Plymouth
Lewis G. Evangelidis	1st Worcester
Susan Williams Gifford	2nd Plymouth
Frank I. Smizik	15th Norfolk
James M. Murphy	4th Norfolk
Stephen R. Canessa	12th Bristol
Barbara A. L'Italien	18th Essex
William Lantigua	16th Essex
Robert F. Fennell	10th Essex
Bradford R. Hill	4th Essex
Christopher N. Speranzo	3rd Berkshire
Carl M. Sciortino, Jr.	34th Middlesex
John W. Scibak	2nd Hampshire
Karyn E. Polito	11th Worcester
Demetrius J. Atsalis	Second Barnstable
Bill Bowles	2nd Bristol
David P. Linsky	5th Middlesex
Mark V. Falzone	9th Essex
Geraldo Alicea	6th Worcester
F. Jay Barrows	1st Bristol
Garrett J. Bradley	3rd Plymouth
William N. Brownsberger	24th Middlesex
Antonio F.D. Cabral	13th Bristol

Thomas P. Conroy	13th Middlesex
Geraldine Creedon	11th Plymouth
James Dwyer	30th Middlesex
Christopher G. Fallon	33rd Middlesex
John V. Fernandes	10th Worcester
William C. Galvin	6th Norfolk
Thomas A. Golden, Jr.	16th Middlesex
Mary E. Grant	6th Essex
Danielle W. Gregoire	4th Middlesex
Denis E. Guyer	2nd Berkshire
Kay Khan	11th Middlesex
Timothy Madden	Barnstable, Dukes and Nantucket
Paul McMurtry	11th Norfolk
David M. Nangle	17th Middlesex
Sarah K. Peake	4th Barnstable
Jeffrey Davis Perry	5th Barnstable
George N. Peterson, Jr.	9th Worcester
Pam Richardson	6th Middlesex
Michael J. Rodrigues	8th Bristol
Tom Sannicandro	7th Middlesex
Stephen Stat Smith	28th Middlesex
Todd M. Smola	1st Hampden
Robert P. Spellane	13th Worcester
James E. Vallee	10th Norfolk
Joseph F. Wagner	8th Hampden
Martin J. Walsh	13th Suffolk
Harriette L. Chandler	First Worcester
Jennifer L. Flanagan	Worcester and Middlesex
Paul K. Frost	7th Worcester
James B. Eldridge	Middlesex and Worcester
Richard J. Ross	9th Norfolk
Thomas M. Stanley	9th Middlesex
Elizabeth Poirier	14th Bristol
John J. Binienda	17th Worcester
John V. Fernandes	10th Worcester
Harold P. Naughton, Jr.	12th Worcester
Geraldo Alicea	6th Worcester
Bruce J. Ayers	1st Norfolk
Thomas M. McGee	Third Essex and Middlesex
Steven J. D'Amico	4th Bristol
Donald F. Humason, Jr.	4th Hampden
Jennifer M. Callahan	18th Worcester

Cynthia Stone Creem	First Middlesex and Norfolk
Michael O. Moore	Second Worcester
Robert A. O'Leary	Cape and Islands
Paul K. Frost	7th Worcester
Kevin Aguiar	7th Bristol
Carlo P. Basile	1st Suffolk
Peter v. Kocot	1st Hampshire
Jay R. Kaufman	15th Middlesex
Katherine Clark	32nd Middlesex
Gloria L. Fox	7th Suffolk
John H. Rogers	12th Norfolk
Ellen Story	3rd Hampshire
Gale D. Candaras	First Hampden and Hampshire
Peter V. Kocot	1st Hampshire

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE MODERNIZATION OF OPTOMETRIC PATIENT CARE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 94C of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by striking out, in line 244, the words "sections 66 and 66B"
3 and inserting in place thereof the following words:- either sections 66 and 66B or sections 66
4 and 66C.

5 SECTION 2. Section 7 of said chapter 94C, as so appearing, is hereby amended by striking out,
6 in line 168, the words "sections 66 and 66B" and inserting in place thereof the following words:-
7 either sections 66 and 66B or sections 66 and 66C.

8 SECTION 3. Section 9 of said chapter 94C, as so appearing, is hereby amended by striking out,
9 in line 2, the words "sections 66 and 66B" and inserting in place thereof the following words:-
10 either sections 66 and 66B or sections 66 and 66C.

11 SECTION 4. Said section 9 of said chapter 94C, as so appearing, is hereby further amended by
12 inserting after the word "podiatrist", in line 64, the following word:- , optometrist.

SECTION 5. Section 66 of chapter 112 of the General Laws, as so appearing, is hereby amended by inserting after the word "utilization", in line 7, the following words:- and prescription.

SECTION 6. Said section 66 of said chapter 112, as so appearing, is hereby further amended by striking out, in line 12, the words " and 66B" and inserting in place thereof the following words:- , 66B and 66C.

SECTION 7. The first paragraph of section 66A of said chapter 112, as so appearing, is hereby amended by adding the following sentence:- A registered optometrist may utilize epinephrine, adrenaline or other agents used in the percutaneous treatment of anaphylaxis.

SECTION 8. Section 66B of said chapter 112, as so appearing, is hereby amended by inserting after the words "injection," in line 13, the third time it appears, the following words:-, except for the utilization of epinephrine, adrenaline or other agents used in the percutaneous treatment of anaphylaxis.

SECTION 9. Said chapter 112 is hereby further amended by inserting after section 66B the following section:-

Section 66C. (a) A registered optometrist, qualified by examination for practice under section 68 after January 1, 2007, duly certified in accordance with section 68C and duly registered to issue written prescriptions in accordance with paragraph (h) of section 7 of chapter 94C may, for the purpose of diagnosing, preventing, correcting, managing or treating ocular diseases, including glaucoma and ocular abnormalities of the human eye and adjacent tissue, utilize and prescribe topical and oral therapeutic pharmaceutical agents used in the practice of optometry as defined in section 66 and described in Title 21 U.S.C. Section 812 or in chapter 94C, including those placed

in schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter 94C and including the utilization of epinephrine, adrenalin, or other agents used in the percutaneous treatment of anaphylaxis. Nothing in this section shall be construed to permit optometric utilization or prescription of: (a) therapeutic pharmaceutical agents for the treatment of systemic diseases; (b) invasive surgical procedures; or (c) pharmaceutical agents administered by subdermal injection, intramuscular injection, intravenous injection, subcutaneous injection or retrobulbar injection, except as authorized above for the percutaneous treatment of anaphylaxis. The pharmaceutical agents from schedule III shall be limited to the narcotic analgesics and shall not include the use of hallucinogenic substances or anabolic steroids. Oral steroid treatment required beyond 14 days shall be continued only in consultation with the patient's physician.

(b) If, during the course of examining or treating a patient with the aid of a diagnostic or therapeutic pharmaceutical agent, an optometrist, exercising professional judgment and that degree of expertise, care and knowledge ordinarily possessed and exercised by optometrists under like circumstances, determines the existence of the signs of previously unevaluated disease which requires treatment not included in the scope of optometric practice as set forth in section 66, such optometrist shall refer the patient to a licensed physician or other qualified health care practitioner. Optometrists may utilize and prescribe nonlegend agents.

(c) Nothing in this section shall prevent a qualified optometrist from serving as an approved investigator in a clinical trial evaluating such drugs.

(d) If a patient exam shows newly diagnosed congenital glaucoma or if, during the course of examining, managing or treating a patient with glaucoma, surgical treatment is indicated, an optometrist shall refer that patient to a qualified physician for treatment.

(e) Optometrists licensed under this chapter 112 and the board of registration in optometry shall participate in appropriate state or federal reports or data collection efforts relative to patient safety and medical error reduction coordinated by the Betsy Lehman center for patient safety and medical error reduction established in section 16E of chapter 6A. Every insurer or risk management organization which provides insurance to an optometrist licensed under this chapter 112 shall make an annual report to the center. The report shall list the top 10 categories of losses, claims or actions for damage for personal injuries alleged to have been caused by error, omission or negligence in the performance by optometrists of services the company incurred during the previous calendar year. Reports shall include completed cases and settlements only and shall not include information identifying providers or patients. Reports shall be provided to the center at its request under annual timelines and reporting requirements established by the center with the input of the advisory committee established in section subsection (c) of said section 16E of said chapter 6A. The center shall use this information in the development of evidence-based best practices to reduce errors and enhance patient safety as required by subsection (e) of said section 16E of said chapter 6A to increase awareness of error prevention strategies through public and professional education as required by that subsection.

SECTION 10. Said chapter 112 is hereby further amended by inserting after section 68B the following section:-

Section 68C (a) The board of registration in optometry shall administer an examination designed to measure the qualifications necessary to safely utilize and prescribe therapeutic pharmaceutical agents defined in subsection (a) of section 66C. Such examination shall be held in conjunction with examinations provided in sections 68, 68A and 68B and shall include any portion of the examination administered by the National Board of Examiners in Optometry or other appropriate

80 examinations covering the subject matter of therapeutic pharmaceutical agents. Nothing shall
81 prohibit the board from administering 1 examination to measure the qualifications necessary
82 under sections 68, 68A, 68B and 68C. The board shall, subsequent to January 1, 2007, only
83 qualify for practice in accordance with said sections 68, 68A, 68B and 68C; and any applicant
84 that presents satisfactory evidence that he has graduated from a school or college of optometry,
85 approved by the board, subsequent to January 1, 2007 shall have satisfied all the requirements of
86 sections 68, 68A, 68B and 68C.

87 (b) Examination for the utilization and prescription of therapeutic pharmaceutical agents placed
88 under schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter 94C and
89 defined in subsection (a) of section 66C shall, upon application, be open to an optometrist
90 registered under section 68, 68A or 68B and to any person who meets the qualifications for
91 examination under sections 68, 68A and 68B. Each such applicant, registered as an optometrist
92 under said section 68, 68A or 68B, shall possess a current Massachusetts controlled substance
93 registration for the use of topical pharmaceutical agents described in section 66B and placed
94 under schedule VI by the commissioner pursuant to section 2 of chapter 94C and shall furnish to
95 the board of registration in optometry evidence of the satisfactory completion of 40 hours of
96 didactic education and 20 hours of supervised clinical education relating to the utilization and
97 prescription of therapeutic pharmaceutical agents defined in subsection (a) of section 66C. Such
98 education shall be administered by the Massachusetts Society of Optometrists, shall be
99 accredited by a college of optometry or medicine and shall otherwise meet the guidelines and
100 requirements of the board of registration in optometry. The board of registration in optometry
101 shall provide to the department of public health and each successful applicant a certificate of

102 qualification in the utilization and prescription of all therapeutic pharmaceutical agents as
103 defined in said subsection (a) of said section 66C.

104 (c) An optometrist licensed in another jurisdiction shall, after January 1, 2007, be deemed an
105 applicant under section 68C by the board of registration in optometry. An optometrist licensed in
106 another jurisdiction may submit evidence to the board of registration in optometry of practice
107 equivalent to that required in section 68, 68A or 68B and the board, at its discretion, may accept
108 such evidence in order to satisfy any of the requirements of this section. An optometrist licensed
109 in another jurisdiction to utilize and prescribe therapeutic pharmaceutical agents substantially
110 equivalent to those placed under schedules III, IV, V and VI by the commissioner pursuant to
111 section 2 of chapter 94C and defined in subsection (a) of section 66C may submit evidence to the
112 board of registration in optometry of equivalent didactic and supervised clinical education in
113 order to satisfy all the requirements of this section.

114 (d) A licensed optometrist who has completed a Council on Optometric Education- approved,
115 post-graduate residency program after July 31, 1997 may submit an affidavit to the board of
116 registration in optometry from their residency supervisor or the director of residencies at the
117 affiliated college of optometry attesting that an equivalent level of instruction and supervision
118 was completed in order to satisfy all the requirements of this section.

119 (e) As a requirement of license renewal, an optometrist licensed under this section shall submit to
120 the board of registration in optometry evidence attesting to the completion of 3 hours of
121 continuing education specific to glaucoma.

122 SECTION 11. Within 90 days after the effective date of this act, the department of public health
123 and the board of registration in optometry shall promulgate the rules and regulations required by

124 sections 1, 7, and 9 of chapter 94C of the General Laws and sections 66, 66A, 66B, 66C and 68C
125 of chapter 112 of the General Laws.